

Stafford County
BOARD OF ZONING APPEALS

MINUTES MARCH 28, 2006

The regular meeting of the Stafford County Board of Zoning Appeals on Tuesday, March 28, 2006 was called to order with the determination of a quorum at 7:00 p.m. by Chairman Larry Ingalls in the Board of Supervisor's Chambers in the Stafford County Government Center. Mr. Ingalls introduced the Board members and staff and explained to the public present, the purpose, function and process of the Board of Zoning Appeals. He asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing to tell the truth.

Mr. Ingalls said the By-laws of this Board state that the applicant is allowed up to ten minutes to state their case, the other speakers are allowed up to three minutes to testify, and the applicant is allowed up to three minutes for rebuttal.

Members Present: Larry Ingalls, Nick Kopchinsky, Julie Rutledge, John Overbey, and Steven Beauch

Members Absent: Angelo Amador and Cecelia Kirkman

Staff Present: Rachel Hudson, Deputy Zoning Administrator
Wanda Doherty, Recording Secretary

Declarations of Disqualification's: Ms. Rutledge – V06-1/2600162
Mr. Overbey - SE05-4/2501666
Mr. Ingalls – SE05-4/2501666 – Mr. Ingalls declared he has worked with Williamsburg Environmental before but not on this project.

AGENDA CHANGES:

Mr. Ingalls stated two cases for tonight have requested to be postponed. He stated one case is at the request of the County V05-21/2600088 - Lois Blaisdell, the staff has asked the hearing be postponed until the applicant has time to complete a water quality impact assessment. The water quality impact assessment is a required requirement to granting a variance in the Chesapeake Bay Overlay District.

Mr. Ingalls stated the second request for postponement was from Anthony and Richard Kim. He stated they want to postpone getting some additional information before they come before the Board.

Mr. Ingalls asked if there is a motion to accept the two requests for postponement.

Mr. Overbey made the motion to accept the two requests for postponement. Ms. Rutledge seconded the motion. The motion was approved 5-0.

Vote:

Motion carried 5-0

Mr. Ingalls – yes
Mr. Kopchinsky – yes
Mr. Overbey – yes
Ms. Rutledge – yes
Mr. Beauch - yes

PUBLIC HEARINGS:

Ms. Hudson reviewed the following case for the Board and Steve Hubble, Environmental Programs Coordinator, presented the technical floodplains part of the staff report.

Mr. Overbey abstained from the case because he is an adjacent property owner.

SE05-4/2501666 - JACK WEYANT, P.E., RICHMOND AMERICAN HOMES, INC. -
Requests a Special Exception per Stafford County Code, Section 28-57 (h)(3), "Permitted Uses in the Floodway District", to allow the construction of a proposed road on Assessor's Parcel 29-53. The property is Zoned A-1, Agricultural, A-2, Rural Residential, and PD-2, Planned Development, located in the proposed Embrey Mill subdivision.

Ms. Rutledge asked Mr. Hubble if he was aware of the March 27, 2006 memo from Clark Leming and do you agree with it.

Mr. Hubble stated he was aware of the memo and he did agree with the modification.

Ms. Rutledge asked why the effects would be upstream instead of downstream.

Mr. Hubble stated that there was an upstream effect because the culvert will cause a constriction in the floodplain and cause water to backup behind it temporarily.

Mr. Leming representative for the applicant stated the original zoning for this property was approved with proffers. He stated Mr. Hubble covered the technical part of the request in his staff report and he would not repeat. He stated they would be doing a 48' span instead of a 20' span. He confirmed Mr. Hubble's statement that no other properties would be affected but the applicants. He stated they had provided the Board with a copy of the 100-year to 500-year floodplain and pictures.

Ms. Rutledge asked if the County has approved the subdivision plan, which includes the road, and Mr. Leming stated yes.

The Board discussed the importance of no changes being done to the area.

Mr. Leming stated the Board could make it a condition to not have changes to the area.

Mr. Kopchinsky asked if a traffic study had been done.

Mr. John Snyder of Richmond American Homes, Inc. stated a traffic study had been done and approved by the Virginia Department of Transportation.

Mr. Ingalls opened the Public Hearing.

Opponents:

Ms. Helen Edwards stated she has stakes put 20 feet on her property.

Mr. John Russell stated he was present to confirm the stakes being 20 feet on Ms. Edwards property.

Ms. Rutledge stated the issue before the Board is whether the bridge is to be built.

Mr. Kopchinsky stated Ms. Edwards would need to address her question and concerns with the developer.

Proponents: None

Mr. Ingalls closed the Public Hearing.

Mr. Leming stated they would meet with Ms. Edwards about her concerns. He stated they have brought all the information the Board needs to approve this important road for the County.

Motion:

Mr. Kopchinsky made the motion to grant the Special Exception with conditions stated by staff and no additional structures be added.

Ms. Rutledge seconded the motion.

Mr. Kopchinsky stated he made the motion because it falls in the parameter of the request and added the other condition so the developer cannot come back and ask for more.

Ms. Rutledge stated she seconded the motion for the same reasons.

Mr. Kopchinsky said he would like to amend his motion to include the following conditions: 1) Obtain prior to construction of the crossing a Conditional Letter of Map Revision (CLOMR) from FEMA to authorize the increase in base flood elevation prior to construction plan approvals. Follow the CLOMR with the submittal of an as-built Letter of Map Revision (LOMR) from FEMA to revise the effective Flood Insurance Rate Map (FIRM). 2) Obtain all applicable Federal, State and County permits and authorizations for stream encroachment, water quality, wetlands, and land disturbance. 3) No above ground structures other than any flood

mitigation structures required by Federal, State or local regulations will be placed within the floodway or flood fringe.

Ms. Rutledge seconded the revised motion.

Vote:

Motion carried 4-0-1 Abstained

Mr. Ingalls – yes

Mr. Kopchinsky – yes

Mr. Overbey – Abstained

Ms. Rutledge – yes

Mr. Beauch - yes

Ms. Hudson reviewed the following case for the Board.

Ms. Rutledge abstained because she has done business with the applicant.

V06-1/2600162 – RESSA SCHINDEL - Request Variances from Stafford County Code, Section 28-35, Table 3.1 "Districts Uses & Standards", A-2, Rural Residential and Section 28-273, "Nonconforming Structures", to allow an addition to an existing nonconforming structure on Assessor's Parcel 55B-1-4. The property is zoned A-2, Rural Residential, located at 619 White Oak Road.

Ms. Schindel stated she is requesting a Variance to add on a room behind and to the side of the porch.

Ms. Schindel stated the 37.8' is to the right corner; the addition will be 5' back, 42.8' from the front property line.

Mr. Ingalls asked what the addition would be used for.

Ms. Schindel stated it would be used as an exercise room and office.

Mr. Ingalls asked if VDOT had taken any of her land to widen the road.

Ms. Schindel stated she has owned the property for 35 years and knows they have taken property to widen the road but VDOT did not have records. She stated the house has been there for a hundred years and knows the road has been widened a number of times but no records exist.

Mr. Kopchinsky asked the applicant if she was set on have the addition attached to the house and would she consider it not being attached.

Mr. Beauch asked if the applicant did not attach the addition would she be here tonight and Mr. Overbey stated no.

Ms. Schindel stated she did not want the addition to be away from the house.

Mr. Ingalls asked where the drainfield was located and Ms. Schindel stated behind the garage.

Mr. Beauch asked Ms. Schindel if she could attach the addition to the garage.

Ms. Schindel stated she could not because the pool was there.

Ms. Kopchinsky stated no pool is on the drawing and asked Ms. Schindel to put it on the drawing so the Board would know where the pool is located.

Mr. Ingalls opened the Public Hearing

Opponents: None

Proponents: None

Mr. Dusenberry stated he has been a neighbor and known Ms. Schindel for seven years and has no objections to her proposed request.

Ms. Schindel stated she hoped the Board would approve her request for a Variance.

Mr. Ingalls closed the Public Hearing.

Motion:

Mr. Overbey made the motion to deny. Mr. Beach seconded the motion to deny.

Mr. Overbey stated he made the motion to deny because the request did not meet the State Supreme Court requirements and the applicant has other options.

Mr. Beauch stated he would deny because of the same reasons and he feels the applicant has several options.

Mr. Kopchinsky stated he supports denial for the same reasons as Mr. Overbey.

Mr. Ingalls state he opposes the denial because he believes it is a hardship for the applicant because of the County.

Vote:

Motion failed 3-1-1Abstain

Mr. Ingalls – no

Mr. Kopchinsky – yes

Mr. Overbey – yes

Mr. Beauch - yes

Rutledge – Abstain

After a brief discussion by the Board Mr. Kopchinsky made a motion to approve the request. Mr. Beauch seconded the motion.

Vote:

Motion failed 2-2-1 Abstain

Mr. Ingalls – yes

Mr. Kopchinsky –no

Mr. Overbey – no

Mr. Beauch – yes

Ms. Rutledge - Abstain

Mr. Overbey told the applicant the Board has no option but to deny and their hands are tied.

Ms. Schindel stated that she could put the addition somewhere else and was told she could not.

At 8:17 p.m. the Board recessed.

At 8:30 p.m. the Board reconvened.

Ms. Hudson reviewed the following case for the Board.

V06-2/2600163 - DOUGLAS GROSS - Requests Variances from Stafford County Code, Section 38(b),"Performance Regulations", and Section 28-273, "Nonconforming Structures, to allow an addition to an existing nonconforming structure on Assessor's Parcel 58B-1D-13. The property is zoned R-1, Suburban Residential, and is a corner lot located at 406 Rumford Road, Tylerton Subdivision.

Mr. Ingalls asked the Board if they had any questions and the Board briefly discussed the Corner Lot Expansion Ordinance of 1994.

Ms. Gross, the applicant, stated her husband, herself, and two sons are requesting a 10-foot Variance to add a second story on a portion of their home, the existing structure did not meet minimum side offsets required for corner lots. She stated their goal in requesting the Variance is to proceed with adding a second story on their home between the existing two-story structure and garage. She stated it is important to note that the addition would not increase the square footage of the structure currently deemed nonconforming. She stated the Ordinance for corner lots adopted by the County in 1994 poses a hardship on our family. She stated they purchased their home with the express intent on expanding the structure as the family grew over time. She stated the current zoning constraints regarding nonconforming structures is unfair to the residents of the

County. She stated this zoning constraint hurts County residents who have insufficient means to purchase new larger homes. She stated without the Variance they would be forced to raise their family in less than ideal circumstances. She stated considering housing prices today are at an all

time high the option of moving is economically impossible for them. Ms. Gross stated she has presented letters from neighbors in favor with their request.

Mr. Overbey asked when the house was purchased.

Ms. Gross stated they purchased the home in 1997 and thought we could add on to it.

The Board discussed the location of the second floor bedroom and the bedroom over the garage.

Mr. Overbey asked where the steps for the room over the garage are located.

Ms. Gross stated they are behind the kitchen.

Mr. Kopchinsky asked Ms. Gross if she remembered what the Board explained in the case before hers about needing four positive votes.

Ms. Gross stated they are not asking to increase square footage on the yard but increase the second floor square footage.

Mr. Ingalls stated any addition of square footage is an increase even if it is not on the ground.

Mr. Kopchinsky stated some residents have requested the Board of Supervisors look at this Ordinance. He stated the options the applicant had.

Ms. Gross requested a postponement of her case and the Public Hearing would continue.

Motion:

Ms. Rutledge made the motion to postpone their decision.

Mr. Overbey seconded the motion.

Vote:

Motion carried 5-0

Mr. Ingalls – yes

Mr. Kopchinsky – yes

Mr. Overbey – yes

Mr. Beauch – yes

Ms. Rutledge - yes

UNFINISHED BUSINESS

The Board briefly discussed the annual report and the information to be included in the final copy.

Mr. Ingalls stated there was an interest to expand on the number of approved cases versus cases not approved.

Mr. Overbey made the motion to approve the annual report marked draft 1. Ms. Rutledge seconded.

Mr. Kopchinsky stated approval of report with revision and including attachments and have staff include the last four annual reports.

The Board discussed the subject of Alternate Board members.

Mr. Overbey stated he would like to see three Alternates.

Vote:

Motion carried 5-0

Mr. Ingalls – yes
Mr. Kopchinsky – yes
Mr. Overbey – yes
Mr. Beauch – yes
Ms. Rutledge - yes

REPORT BY DEPUTY ZONING ADMINISTRATOR

Ms. Hudson discussed the Crows Nest case and the Crucible appeal.

ADOPTION OF MINUTES

September 22, 2005

Mr. Kopchinsky made the motion to approve the minutes with the change of the word piece to peace. Mr. Overbey seconded the motion.

Vote:

Motion carried 5-0

Mr. Ingalls – yes
Mr. Kopchinsky – yes
Mr. Overbey – yes
Mr. Beauch – yes
Ms. Rutledge - yes

January 24, 2005

Mr. Ingalls stated not enough members present at that meeting to vote.

February 28, 2006

Ms. Rutledge stated the only change she had for the minutes were on the first page where declaration or disqualifications are and also on the case vote.

Mr. Kopchinsky stated he also had some changes and gave the information to Ms. Hudson. He stated he would like the minutes to be corrected and brought back to the Board.

Mr. Kopchinsky wanted to know if the other set of September minutes were approved. Staff said yes they were.

OTHER BUSINESS

Mr. Ingalls stated at last meeting it was decided to move to this meeting for the election of officers.

Ms. Rutledge made the motion to nominate Nick Kopchinsky as Chairman of the BZA for 2006. Mr. Overbey seconded the motion.

Ms. Rutledge stated she made the motion because Mr. Kopchinsky has worked as Vice Chairman for so many years and has dedicated his time and energy and feels he is more than deserving of the position.

Mr. Overbey concurred.

Mr. Ingalls stated nominations were closed and the only nomination we have is Mr. Kopchinsky and called for the vote.

Vote:

Motion carried 4-0-1 (Kopchinsky)

Mr. Ingalls – yes

Mr. Overbey – yes

Mr. Beauch – yes

Ms. Ingalls - yes

Mr. Overbey made the motion to nominate Steven Beauch as Vice Chairman. Ms. Rutledge seconded the motion.

Mr. Beauch stated he did not want the position.

Ms. Rutledge made the motion to nominate Mr. Overbey for Vice Chairman. Mr. Beauch seconded the motion.

Mr. Ingalls asked if there were any further nominations. The nominations were closed.

Ms. Rutledge stated she nominated Mr. Overbey because he is very professional and knowledgeable, and if Mr. Kopchinsky is not here I am confident Mr. Overbey could conduct the meeting.

Vote:

Motion carried 4-0-1 (Overbey)

Mr. Ingalls – yes
Mr. Kopchinsky – yes
Mr. Beauch – yes
Ms. Rutledge – yes

Mr. Overbey made the motion to nominate Ms. Rutledge for Secretary.

Ms. Rutledge stated she could do it next year but has too much going on to do it for 2006.

Mr. Overbey nominated Mr. Ingalls as Secretary of the BZA. Ms. Rutledge seconded the motion.

Ms. Rutledge made the motion to close nominations.

Mr. Ingalls stated nominations are closed.

Vote:

Motion carried 4-0-1 (Ingalls)

Mr. Kopchinsky – yes
Mr. Beauch – yes
Ms. Rutledge – yes
Mr. Overbey - yes

ADJOURNMENT

Mr. Overbey made the motion to adjourn. Ms. Rutledge seconded the motion.

Vote:

Motion carried 5-0

Mr. Ingalls – yes

Mr. Kopchinsky – yes
Mr. Beauch – yes
Ms. Rutledge – yes
Mr. Overbey - yes

Meeting Adjourned at 9:50 p.m.

WLD

Approved: _____ Date: _____
Rachel T. Hudson, Deputy Zoning Administrator